

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

In the Matter of:

East Akron Station
Akron, Ohio 44305-0098
(Paul J. Connor and Shirley
Strader, Petitioners)
(City of Akron, Ohio, Intervenor)

Docket No. A2011-16

UNITED STATES POSTAL SERVICE RESPONSE TO ORDER NO. 815
(August 25, 2011)

On August 19, 2011, the Commission issued Order No. 815, denying Petitioner's motion for an extension of time to request oral argument¹ (the "Motion"), but "allow[ing] both parties to file additional statements regarding the relevance and impact on this appeals proceeding of the Postal Service's examination of the South Arlington Station for continuation of service." Order Denying Extension, PRC Order No. 815, PRC Docket No. A2011-16 (August 19, 2011) at 3. As described in the Postal Service's opposition² to the Motion, the Retail Access Optimization ("RAO") Initiative (PRC Docket N2011-1) has no impact on this appeal proceeding because (1) the statute governing this appeal proceeding, 39 U.S.C. § 404(d), limits the Commission's review to facts contained in the administrative record, which does not include any facts regarding the RAO Initiative, and (2) there has been no change in operations at South Arlington Station.

¹ City of Akron, Ohio's Motion to Extend the Deadline for City of Akron to File Motion Requesting Oral Argument, PRC Docket No. A2011-16 (August 8, 2011).

² Opposition of United States Postal Service to City of Akron, Ohio's Motion to Extend the Deadline for City of Akron to File Motion Requesting Oral Argument, PRC Docket No. A2011-16 (August 15, 2011).

The record related to the RAO Initiative falls outside of the administrative record and cannot be considered by the Commission in this appeal proceeding. Section 404(d) limits the Commission's review of the closing or consolidation of a Post Office to the administrative record.³ The presence of the South Arlington Station on a list of candidates for discontinuance study was not a factor at the time the Postal Service made the decision to discontinue the East Akron Station. Accordingly, the Commission is prevented from considering this fact now when reviewing whether the Postal Service's decision was (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence on the record. 39 U.S.C. § 404(d).

In any event, the identification of South Arlington Station in PRC Docket No. N2011-1 has no impact upon the facts underlying the instant appeal; the fact of identification has no impact on access to retail service for customers of the East Akron Station. Initiation of a feasibility study for the South Arlington Station does not indicate that a full discontinuance study will be conducted, or any change in customer retail options will ensue. As such, current facts are too tenuous to warrant consideration of this issue as a factor in the discontinuance of

³ 39 U.S.C. 404(d)(5). While the Postal Service maintains that the procedures applicable to a Post Office discontinuance do not apply here because this discontinuance action pertains to a station, and not a Post Office, the legal premise on which the Commission bases its assertion of jurisdiction limits the Commission: "The Commission shall review [the Postal Service decision] on the basis of the record before the Postal Service in making [its decision]." *Id.*

the East Akron Station.⁴ The RAO Initiative aims to evaluate certain facilities within the postal retail network and determine whether any one or more of them can be discontinued while still maintaining postal facilities of such character and in such locations that postal patrons throughout the Nation will, consistent with reasonable economies of postal operations, have ready access to essential postal services. See Request of the United States Postal Service for an Advisory Opinion on Changes in the Nature of Postal Services, PRC Docket No. N2011-1, at 2-3. At this juncture in the RAO Initiative proceedings, the Commission has not advised the Postal Service whether it believes this initiative even constitutes a nationwide change in service.

In addition, the initial discontinuance feasibility studies, at worst, can lead only to a formal study being initiated, where the Postal Service will consider various factors, including the effects on the community and employees, economic savings, the policy in section 101(b) requiring a maximum degree of effective and regular postal services where Post Offices are not self-sustaining, and such other factors as the Postal Service determines are necessary. 39 U.S.C. § 404(d). While the recent discontinuance of a nearby classified unit may be germane in later discontinuance studies, the converse is not. All kinds of future change may be germane to a future study, but they do not change studies conducted in the past. The Postal Service is nowhere near a stage where future decisions can be evaluated, let alone decided. In fact, any decision regarding the possible discontinuance of the South Arlington Station and its potential effect on

⁴ Assuming the East Akron Station is discontinued, the absence of the East Akron Station means it would not be identified as an alternate location for access to retail services if the South Arlington Station is formally studied.

customers of that office is not ripe for consideration. The Commission has until September 8th to issue its decision in this docket, and the Postal Service has declared that no facility discontinuance or service change resulting from the RAO Initiative will be implemented before late December, 2011. See Request of the United States Postal Service for an Advisory Opinion on Changes in the Nature of Postal Services, PRC Docket No. N2011-1, at 2.

For the reasons stated above, the Postal Service believes that the Retail Access Optimization Initiative has no impact on this appeal.

Respectfully submitted,

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